

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ANNETTE MONTSTREAM,  
Petitioner,

v.

ORDER  
06-CV-787A

SUPERINTENDENT, Bedford Hills  
Correctional Facility,

Respondent.

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The above-referenced case was referred to Magistrate Judge Victor E. Bianchini, pursuant to 28 U.S.C. § 636(b)(1)(B). On January 4, 2011, Magistrate Judge Bianchini filed a Report and Recommendation, recommending that the Amended Petition for writ of Habeas Corpus filed by petitioner be dismissed and also that no certificate of appealability should issue with respect to any of petitioner's claims as she has failed to make a substantial showing of the denial of a constitutional right.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Bianchini's Report and Recommendation, the Amended Petition for a writ of Habeas Corpus is dismissed.

FURTHER, the Court finds that petitioner has failed to make a substantial showing of the denial of a constitutional right and therefore denies her motion for a certificate of appealability. 28 U.S.C. § 2253(c)(2).

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this judgment would not be taken in good faith, and therefore denies leave to appeal *in forma pauperis*. Further requests to proceed on appeal *in forma pauperis* must be filed with the United States Court of Appeals for the Second Circuit in accordance with the requirements of Rule 24 of the Federal Rules of Appellate Procedure.

The Clerk of Court shall take all steps necessary to close the case.

SO ORDERED.

*s/ Richard J. Arcara* \_\_\_\_\_

HONORABLE RICHARD J. ARCARA  
UNITED STATES DISTRICT JUDGE

DATED: January 25, 2011